

EXHIBIT 295 – A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : MDL NO. 2804
7 PRESCRIPTION OPIATE :
8 LITIGATION :
9 :

10 -----
11 THIS DOCUMENT RELATES TO : CASE NO.
12 ALL CASES : 1:17-MD-2804
13 :
14 : Hon. Dan A.
15 : Polster

16 - - -

17 February 8, 2019

18 - - -

19 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
20 CONFIDENTIALITY REVIEW

21
22 Continued videotaped deposition
23 of STEPHEN MAYS taken pursuant to notice, was
24 held at the law offices of Reed Smith LLP, Three
25 Logan Square, 1717 Arch Street, Suite 3100,
26 Philadelphia, Pennsylvania, beginning at 11:12
27 a.m., on the above date, before Ann Marie
28 Mitchell, a Federally Approved Certified Realtime
29 Reporter, Registered Diplomate Reporter,
30 Registered Merit Reporter and Notary Public.

31 - - -

32 GOLKOW LITIGATION SERVICES
33 877.370.3377 ph | 917.591.5672 fax
34 deps@golkow.com

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 BARON & BUDD, P.C.</p> <p>4 BY: MARK PIFKO, ESQUIRE</p> <p>5 15910 Ventura Boulevard</p> <p>6 Suite 1600</p> <p>7 Encino, California 91436</p> <p>8 (818) 839-2333</p> <p>9 mpifko@baronbudd.com</p> <p>10 Representing the Plaintiffs</p> <p>11</p> <p>12 BARON & BUDD, P.C.</p> <p>13 BY: WILLIAM POWERS, ESQUIRE</p> <p>14 600 New Hampshire Avenue NW</p> <p>15 The Watergate, Suite 10-A</p> <p>16 Washington, DC 20037</p> <p>17 (202) 333-4562</p> <p>18 wpowers@baronbudd.com</p> <p>19 Representing the Plaintiffs</p> <p>20</p> <p>21 REED SMITH LLP</p> <p>22 BY: SHANNON E. McCLURE, ESQUIRE</p> <p>23 BY: JEFFREY R. MELTON, ESQUIRE</p> <p>24 BY: ABIGAIL M. PIERCE, ESQUIRE</p> <p>Three Logan Square</p> <p>1717 Arch Street, Suite 3100</p> <p>Philadelphia, Pennsylvania 19103</p> <p>(215) 851-8100</p> <p>smcclure@reedsmith.com</p> <p>jmilton@reedsmith.com</p> <p>abigail.pierce@reedsmith.com</p> <p>Representing AmerisourceBergen Drug Corporation</p>	<p>1 APPEARANCES VIA TELEPHONE/STREAM:</p> <p>2</p> <p>3 BARON & BUDD, P.C.</p> <p>4 BY: W. SCOTT SIMMER, ESQUIRE</p> <p>5 BY: GRETCHEN KEARNEY, ESQUIRE</p> <p>6 600 New Hampshire Avenue NW</p> <p>7 The Watergate, Suite 10-A</p> <p>8 Washington, DC 20037</p> <p>9 (202) 333-4562</p> <p>10 ssimmer@baronbudd.com</p> <p>11 gkearney@baronbudd.com</p> <p>12 Representing Plaintiffs</p> <p>13</p> <p>14 BARON & BUDD, P.C.</p> <p>15 BY: STERLING CLUFF, ESQUIRE</p> <p>16 BY: JAY LICHTER, ESQUIRE</p> <p>17 15910 Ventura Blvd</p> <p>18 Suite 1600</p> <p>19 Encino, California 91436</p> <p>20 (818) 839-2333</p> <p>21 cluff@baronbudd.com</p> <p>22 jlichter@baronbudd.com</p> <p>23 Representing the Plaintiffs</p> <p>24</p> <p>GREENE KETCHUM FARRELL BAILEY & TWEEL LLP</p> <p>BY: PAUL THOMAS FARRELL JR., ESQUIRE</p> <p>419 Eleventh Street</p> <p>Huntington, West Virginia 25701</p> <p>(304) 525-9115</p> <p>Representing the Plaintiffs</p> <p>THE LANIER LAW FIRM</p> <p>BY: EVAN M. JANUSH, ESQUIRE</p> <p>Tower 56</p> <p>126 East 56th Street, 6th Floor</p> <p>New York, New York 10022</p> <p>(212) 421-2800</p> <p>evan.janush@lanierlawfirm.com</p> <p>Representing the Plaintiffs</p>
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<p>1</p> <p>2 JOSH GAY</p> <p>3 Levin Papantonio Thomas Mitchell</p> <p>4 Rafferty Proctor P.A.</p> <p>5</p> <p>6 EMMA KABOLI</p> <p>7 Baron & Budd, P.C.</p> <p>8</p> <p>9 ALEX SHERMAN</p> <p>10 - - -</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 - - -</p> <p>2 DEPOSITION SUPPORT INDEX</p> <p>3 - - -</p> <p>4</p> <p>5 Direction to Witness Not to Answer</p> <p>6</p> <p>7 Page Line</p> <p>8</p> <p>9 Request for Production of Documents</p> <p>10 Page Line</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Stipulations</p> <p>15</p> <p>16 Page Line</p> <p>17</p> <p>18</p> <p>19 Question Marked</p> <p>20</p> <p>21 Page Line</p> <p>22</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 10</p> <p>1 THE VIDEOGRAPHER: We're now on 2 the record. My name is David Lane, 3 videographer for Golkow Litigation 4 Services. Today's date is 11:12 a.m. 5 This deposition is taking place in 6 Philadelphia, Pennsylvania in the matter 7 of National Prescription Opiate 8 Litigation MDL. 9 Our deponent today is Steve Mays. 10 All counsel will be noted on the 11 stenographic record. 12 The court reporter is Ann Marie 13 Mitchell, who will now swear in our 14 witness. 15 - - - 16 STEPHEN MAYS, after having been 17 duly sworn, was examined and testified as 18 follows: 19 - - - 20 THE VIDEOGRAPHER: Please begin. 21 MR. PIFKO: Could we get everyone 22 to state their appearance, or did people 23 already do that? 24 Mark Pifko from Baron & Budd on</p>	<p style="text-align: right;">Page 12</p> <p>1 Arnold & Porter on behalf of Endo and 2 Par. 3 MR. FARRELL: Paul Farrell on 4 behalf of the PEC. 5 COURT REPORTER: Counsel? 6 MS. McCLURE: Paul? Hey, Paul, 7 you're going to have to restate that. I 8 could hear your name vaguely, but the 9 court reporter and the videographer could 10 not hear you. 11 MR. FARRELL: This is Paul 12 Farrell, Jr., for the PEC. And I will be 13 on for portions of today but not the 14 entire duration. 15 MR. PIFKO: All right. 16 - - - 17 EXAMINATION 18 - - - 19 BY MR. PIFKO: 20 Q. Ready to begin? 21 A. Yes, sir. 22 Q. You understand that you're under 23 oath. 24</p>
<p style="text-align: right;">Page 11</p> <p>1 behalf of the plaintiffs and the PEC. 2 MR. POWERS: Will Powers, also 3 from Baron & Budd. 4 MS. McCLURE: Shannon McClure on 5 behalf of ABDC. 6 MR. MELTON: Jeffrey Melton on 7 behalf of ABDC. 8 MR. CASALENUOVO: Chris 9 Casalenuovo with ABDC. 10 MS. PIERCE: Abigail Pierce, 11 Reed. 12 MS. MONAGHAN: Meghan Monaghan 13 for McKesson. 14 MS. ADAMS: Kate Adams for 15 Cardinal Health. 16 MR. HOLLINGSWORTH: Adam 17 Hollingsworth on behalf of Walmart. 18 THE VIDEOGRAPHER: Counsel on the 19 phone? 20 MS. HANNAM: This is Monique 21 Hannam on behalf of HD Smith. 22 MR. RILEY: Luke Riley on behalf 23 of Ropes & Gray. 24 MR. HOUSTON: Zeno Houston from</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes, sir. 2 Q. Correct? 3 Okay. And that means that you 4 are under penalty of perjury. And if you are 5 intentionally dishonest or misleading, that you 6 could be subject to penalties from the court. 7 Do you understand that? 8 A. I understand. 9 Q. Okay. Is there any reason why 10 you're unable to give truthful and accurate 11 testimony today? 12 A. No. 13 Q. Are you undergoing any medical 14 treatment or taking any medications that would 15 impact your ability to tell the truth? 16 A. No. 17 Q. Are you undergoing any treatment 18 or taking any medication that would impact your 19 memory? 20 A. No. 21 Q. Is there any reason why this 22 deposition shouldn't go forward, as far as you 23 know? 24 A. As far as I know.</p>

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1 Q. Okay. So you were deposed a few
2 months ago or so in this case.
3 Do you recall?
4 A. I do.
5 Q. Okay. One of the things we
6 discussed in your prior deposition was your work
7 history with your current employer.
8 Do you recall that?
9 A. Yes.
10 Q. During your last deposition, we
11 discussed how one of the things that you did was
12 you established the Orlando facility for the
13 company.
14 Do you recall that discussion?
15 MS. McCLURE: Objection to form.
16 THE WITNESS: I didn't establish
17 it alone. I was the operations manager.
18 BY MR. PIFKO:
19 Q. Okay.
20 A. When it was opened, yes.
21 Q. But you were one of the people
22 who was responsible for establishing the Orlando
23 facility. Correct?
24 A. That's right.

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1 MS. McCLURE: Objection to form.
2 BY MR. PIFKO:
3 Q. You moved from, I believe you
4 were in Kentucky or Tennessee?
5 A. Tennessee.
6 Q. Okay. Tennessee. You moved from
7 there to Orlando in order to help establish the
8 Orlando facility. Correct?
9 A. That's correct.
10 Q. And then you -- what was your
11 first role at the Orlando facility?
12 MS. McCLURE: Objection, asked
13 and answered.
14 THE WITNESS: I was the
15 operations manager.
16 BY MR. PIFKO:
17 Q. And did you have that role the
18 whole time that you were there?
19 A. Not the whole time, no.
20 Q. What was your most senior role
21 when you left the Orlando facility?
22 MS. McCLURE: Objection, asked
23 and answered, form.
24 THE WITNESS: Operations manager

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1 was the most senior role.
2 BY MR. PIFKO:
3 Q. And then later you became an
4 auditor. Correct?
5 A. Yes.
6 Q. And part of your responsibilities
7 involved auditing the facilities, including the
8 Orlando facility. Correct?
9 A. Originally not the Orlando
10 facility.
11 Q. But ultimately you did have
12 responsibilities that included auditing the
13 Orlando facility. Correct?
14 A. I believe --
15 MS. McCLURE: Objection, asked
16 and answered.
17 THE WITNESS: I believe that was
18 in my area of responsibility, yes.
19 BY MR. PIFKO:
20 Q. Are you familiar with the order
21 to show cause that was issued concerning the
22 Orlando facility?
23 A. Yes.
24 MS. McCLURE: Objection, asked

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1 and answered.
2 Are we doing a continuation of
3 the exhibit numbering?
4 MR. PIFKO: We're calling it
5 Volume 2.
6 MS. McCLURE: Thank you.
7 - - -
8 (Deposition Exhibit No. Mays
9 V2-1, Order to Show Cause and Immediate
10 Suspension of Registration, Bates stamped
11 ABDCMDL00269383 through ABDCMDL00269387,
12 was marked for identification.)
13 - - -
14 BY MR. PIFKO:
15 Q. I'm handing you what's marked as
16 Exhibit 1. Volume 2, Exhibit 1.
17 For the record, it's a letter
18 from the DEA dated April 19, 2007, Bates labeled
19 ABDCMDL00269383 through 387.
20 Have you seen this exhibit
21 before?
22 MS. McCLURE: The document or the
23 exhibit?
24 THE WITNESS: I've seen this

<p style="text-align: right;">Page 18</p> <p>1 document before, yes.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Can you tell me what this is?</p> <p>4 A. It is an order to show cause and</p> <p>5 immediate suspension of the Orlando registration.</p> <p>6 Q. When was the last time you saw</p> <p>7 this document?</p> <p>8 A. I can't recall.</p> <p>9 Q. Is this something that you</p> <p>10 reviewed in preparing for your deposition?</p> <p>11 A. No.</p> <p>12 Q. Okay. Do you believe you saw</p> <p>13 this on or around the time it was issued in April</p> <p>14 of 2007?</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 THE WITNESS: Sometime after the</p> <p>17 suspension. I didn't see it immediately.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Okay. But sometime on or</p> <p>20 around -- it was -- after it was issued, it was</p> <p>21 provided to you. Correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Who would have provided it to</p> <p>24 you?</p>	<p style="text-align: right;">Page 20</p> <p>1 order to show cause?</p> <p>2 MS. McCLURE: Objection to form.</p> <p>3 THE WITNESS: I'm not sure what</p> <p>4 that -- I'm not sure what you mean by</p> <p>5 changes operationally.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Well, let's go through and see --</p> <p>8 let's look at Exhibit 1 and see what the</p> <p>9 Department of Justice said to AmerisourceBergen</p> <p>10 in this letter.</p> <p>11 It said, "Respondent" -- you see</p> <p>12 on the first page here, there's a number of</p> <p>13 paragraphs, starting about halfway down.</p> <p>14 It says, "Respondent has failed</p> <p>15 to maintain effective controls against diversion</p> <p>16 of particular controlled substances into other</p> <p>17 than legitimate medical, scientific and</p> <p>18 industrial channels, in violation of 21 U.S.C.</p> <p>19 Sections 823(b)(1) and (e)(1)."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Did I read that correctly?</p> <p>23 A. I believe you did.</p> <p>24 Q. And then it says, "From January</p>
<p style="text-align: right;">Page 19</p> <p>1 MS. McCLURE: Objection to form.</p> <p>2 THE WITNESS: I don't recall.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Were you part of discussions</p> <p>5 about what was going to be done to respond to</p> <p>6 this order to show cause?</p> <p>7 MS. McCLURE: Objection to form.</p> <p>8 THE WITNESS: Internally or with</p> <p>9 DEA?</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Internally.</p> <p>12 A. Internally. Yes. I was part of</p> <p>13 some discussions, yes.</p> <p>14 Q. Who did you discuss this order to</p> <p>15 show cause with?</p> <p>16 A. My boss, Chris Zimmerman.</p> <p>17 Q. Anyone else?</p> <p>18 A. Not that I remember.</p> <p>19 Q. What was the nature of your</p> <p>20 discussion with Mr. Zimmerman?</p> <p>21 A. I don't recall exactly.</p> <p>22 Q. Did you discuss that you were</p> <p>23 going to make any changes to the operations at</p> <p>24 the Orlando facility as a result of seeing this</p>	<p style="text-align: right;">Page 21</p> <p>1 1, 2006, through January 31, 2007, Respondent</p> <p>2 distributed over 3.8 million dosage units of</p> <p>3 combination hydrocodone products to customers</p> <p>4 that it knew or should have known were diverting</p> <p>5 the hydrocodone into other than legitimate</p> <p>6 medical, scientific and industrial channels."</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Did I read that correctly?</p> <p>10 A. I think you did.</p> <p>11 Q. Did you understand at the time</p> <p>12 that that was a concern raised by the Department</p> <p>13 of Justice with respect to AmerisourceBergen?</p> <p>14 A. Yes, I understand that.</p> <p>15 MS. McCLURE: Objection to the</p> <p>16 form.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Did you have an understanding</p> <p>19 about what the specific basis was for that</p> <p>20 concern?</p> <p>21 MS. McCLURE: Objection to the</p> <p>22 form.</p> <p>23 THE WITNESS: Can you repeat that</p> <p>24 question again?</p>

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1 BY MR. PIFKO:
 2 Q. So it says here that
 3 AmerisourceBergen failed to maintain effective
 4 controls against diversion. And then it says
 5 that AmerisourceBergen distributed over
 6 3.8 million dosage units of combination
 7 hydrocodone products to customers that it knew or
 8 should have known were diverting them.
 9 Did I read that -- summarize it
 10 correctly?
 11 A. I just asked you to repeat the
 12 question.
 13 Q. Yeah. Did I summarize that
 14 correctly?
 15 A. I think you did.
 16 Q. Okay. So my question is, do you
 17 have an understanding about the specific basis of
 18 why the Department of Justice said that?
 19 A. Yes.
 20 Q. Okay. What is your
 21 understanding?
 22 A. That the Department of Justice
 23 felt like we were shipping a large quantity to --
 24 of hydrocodone combination products to customers

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1 in Florida, in their opinion.
 2 Q. Were you in fact shipping the
 3 quantities that they said you were shipping?
 4 A. I can't verify that to the
 5 number.
 6 Q. Do you recall ever --
 7 A. I'm sure -- go ahead.
 8 Q. Do you recall ever disputing
 9 that the numbers that they were providing were
 10 incorrect?
 11 MS. McCLURE: Objection to form.
 12 THE WITNESS: I don't recall that
 13 we disputed it, no.
 14 BY MR. PIFKO:
 15 Q. So to your recollection, you
 16 never told the Department of Justice their
 17 numbers were wrong. Agreed?
 18 MS. McCLURE: Objection to form.
 19 THE WITNESS: I wasn't involved
 20 in the discussions with the Department of
 21 Justice.
 22 BY MR. PIFKO:
 23 Q. Okay. But to your knowledge, no
 24 one at AmerisourceBergen told the Department of

Page 24

1 Justice they were wrong. Correct?
 2 MS. McCLURE: Objection to form.
 3 THE WITNESS: I don't know.
 4 BY MR. PIFKO:
 5 Q. Sitting here today, you're not
 6 aware of anyone responding to the Department of
 7 Justice in connection with this and saying the
 8 sales figures you're providing in your letter are
 9 incorrect.
 10 Would you agree with that?
 11 MS. McCLURE: Objection to form.
 12 THE WITNESS: Again, I don't know
 13 what was said.
 14 BY MR. PIFKO:
 15 Q. What was your title at this time?
 16 A. 2007, I would have -- I believe I
 17 was director of regulatory affairs.
 18 Q. Were the policies and procedures
 19 at the Orlando facility consistent with the
 20 company's policies around the country?
 21 MS. McCLURE: Objection to form.
 22 THE WITNESS: Yes, they were.
 23 BY MR. PIFKO:
 24 Q. So with respect to diversion

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1 control, there was nothing different going on at
 2 the Orlando facility than there was at any other
 3 facility. Correct?
 4 MS. McCLURE: Objection to form.
 5 THE WITNESS: Not that I know of.
 6 BY MR. PIFKO:
 7 Q. Do you know why you said earlier
 8 that the Department of Justice was concerned
 9 about the volume of these products, these
 10 hydrocodone combination products, that were being
 11 sold to customers? Agreed?
 12 MS. McCLURE: Objection to form.
 13 THE WITNESS: I agree that
 14 they -- I would assume they were
 15 concerned or they wouldn't have suspended
 16 the registration.
 17 BY MR. PIFKO:
 18 Q. Why were they concerned about
 19 these volumes?
 20 MS. McCLURE: Objection to form.
 21 THE WITNESS: I don't know.
 22 BY MR. PIFKO:
 23 Q. You have no idea why this was a
 24 concern?

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1 MS. McCLURE: Same objection.
 2 THE WITNESS: I didn't have any
 3 conversations with DEA about it, so I
 4 don't know how they formed that opinion.
 5 BY MR. PIFKO:
 6 Q. Well, let's go to the second page
 7 here.
 8 Again, there's numbered
 9 paragraphs. There's a paragraph number 5 at the
 10 bottom there.
 11 A. Okay.
 12 Q. I'm going to read it to you, and
 13 tell me if I read it correctly.
 14 It says, "On August 10, 2005, DEA
 15 personnel met with Steve Mays, Respondent's
 16 Director of Regulatory Affairs, to inform him
 17 about the common characteristics of pharmacies
 18 that divert large amounts of controlled
 19 substances by filling invalid prescriptions
 20 obtained by customers using the Internet."
 21 Do you see that?
 22 A. Yes, I do.
 23 Q. Did I read that correctly?
 24 A. Yes, you did.

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1 Q. Do you recall having a meeting
 2 with DEA personnel on August 10, 2005?
 3 MS. McCLURE: Objection, asked
 4 and answered.
 5 THE WITNESS: I don't recall if
 6 that was the exact date, but I do recall
 7 the meeting, yes.
 8 BY MR. PIFKO:
 9 Q. Does this refresh your
 10 recollection about what your title was on or
 11 around this time?
 12 A. Yes.
 13 Q. Okay. So when it says here that
 14 you were director of regulatory affairs, is that
 15 correct?
 16 A. That's correct.
 17 Q. Was that your title on or around
 18 the time that this order to show cause was
 19 issued?
 20 MS. McCLURE: Objection, asked
 21 and answered.
 22 THE WITNESS: I think so, yes.
 23 BY MR. PIFKO:
 24 Q. So you recall having this meeting

Page 28

1 with the DEA, correct --
 2 A. Yes, I do.
 3 Q. -- in 2005?
 4 MS. McCLURE: Objection, asked
 5 and answered.
 6 BY MR. PIFKO:
 7 Q. Who was present at this meeting?
 8 MS. McCLURE: Objection, asked
 9 and answered.
 10 THE WITNESS: Myself and Mike
 11 Mates (ph) from DEA. And then there was
 12 an attorney there, counsel, that I don't
 13 recall his name.
 14 BY MR. PIFKO:
 15 Q. Attorney for the Department of
 16 Justice?
 17 A. Yes. Or for DEA.
 18 Q. Okay. Was there anyone else from
 19 AmerisourceBergen who was present at this
 20 meeting?
 21 MS. McCLURE: Objection, asked
 22 and answered.
 23 THE WITNESS: No, there wasn't.
 24 BY MR. PIFKO:

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1 Q. Do you agree with the
 2 characterization in this letter that at that
 3 meeting they informed you about the common
 4 characteristics of pharmacies that divert large
 5 amounts of controlled substances by filling
 6 invalid prescriptions obtained by customers using
 7 the internet?
 8 A. Yes.
 9 Q. It says, going on to page 3, "DEA
 10 personnel reminded Respondent that under 21
 11 U.S.C. Sections 823(b)(1) and (e)(1), Respondent
 12 was responsible to prevent the diversion of
 13 controlled substances."
 14 Do you see that?
 15 A. I see that, yes.
 16 Q. Did I read that correctly?
 17 A. Yes, you did.
 18 Q. Do you recall the DEA informing
 19 you during that meeting that AmerisourceBergen
 20 was responsible for preventing diversion of
 21 controlled substances?
 22 MS. McCLURE: Objection to form.
 23 THE WITNESS: I don't recall that
 24 specifically.

<p style="text-align: right;">Page 30</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. How about generally?</p> <p>3 MS. McCCLURE: Same.</p> <p>4 THE WITNESS: Same.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Do you recall during that meeting</p> <p>7 the DEA discussing AmerisourceBergen's</p> <p>8 responsibilities under the Controlled Substances</p> <p>9 Act?</p> <p>10 MS. McCCLURE: Objection to form.</p> <p>11 THE WITNESS: Not specifically.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. How about generally, do you</p> <p>14 remember --</p> <p>15 A. That was 12 years ago.</p> <p>16 Q. Okay. How about generally, do</p> <p>17 you remember them discussing any expectations</p> <p>18 about what AmerisourceBergen was supposed to do</p> <p>19 with respect to complying with the Controlled</p> <p>20 Substances Act?</p> <p>21 MS. McCCLURE: Objection to form.</p> <p>22 THE WITNESS: Not specifically.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. How about generally?</p>	<p style="text-align: right;">Page 32</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Who would you have told if you</p> <p>3 told someone?</p> <p>4 MS. McCCLURE: Objection to form,</p> <p>5 calls for speculation.</p> <p>6 THE WITNESS: I would have to</p> <p>7 speculate. I don't know. I couldn't</p> <p>8 tell you for sure. Again, that was 12</p> <p>9 years ago.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Okay. Next sentence here,</p> <p>12 "Notwithstanding the information provided to</p> <p>13 Respondent, after the August 10, 2005 meeting,</p> <p>14 Respondent sold over 5.2 million dosage units of</p> <p>15 hydrocodone to pharmacies that bore the</p> <p>16 characteristics that DEA described in the August</p> <p>17 10, 2005 meeting."</p> <p>18 Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Did I read that correctly?</p> <p>21 A. I believe you did.</p> <p>22 Q. Do you agree with that statement?</p> <p>23 MS. McCCLURE: Objection to form.</p> <p>24 THE WITNESS: I can't verify the</p>
<p style="text-align: right;">Page 31</p> <p>1 MS. McCCLURE: Same objection.</p> <p>2 THE WITNESS: Not -- not</p> <p>3 generally.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. So you don't have any</p> <p>6 recollection of whether you discussed the</p> <p>7 Controlled Substances Act at that meeting?</p> <p>8 MS. McCCLURE: Objection, asked</p> <p>9 and answered.</p> <p>10 THE WITNESS: Not specifically.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. When you left that meeting, you</p> <p>13 reported back to Chris Zimmerman. Correct?</p> <p>14 MS. McCCLURE: Objection, asked</p> <p>15 and answered.</p> <p>16 THE WITNESS: I don't recall that</p> <p>17 I did.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Did you tell anybody about that</p> <p>20 meeting?</p> <p>21 MS. McCCLURE: Same objection.</p> <p>22 THE WITNESS: Not -- I don't</p> <p>23 recall specifically. I'm sure I did, but</p> <p>24 I don't recall specifically.</p>	<p style="text-align: right;">Page 33</p> <p>1 quantities.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Other than verifying the</p> <p>4 quantities, do you agree with that statement?</p> <p>5 MS. McCCLURE: Same objection.</p> <p>6 THE WITNESS: I can't really</p> <p>7 agree with it because I don't -- I don't</p> <p>8 know. I don't recall.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. You don't know either way?</p> <p>11 A. No.</p> <p>12 Q. Do you have any reason to dispute</p> <p>13 that AmerisourceBergen sold over 5.2 million</p> <p>14 dosage units of hydrocodone products to</p> <p>15 pharmacies that bore the characteristics</p> <p>16 discussed at this August 10, 2005 meeting?</p> <p>17 MS. McCCLURE: Objection to form.</p> <p>18 THE WITNESS: I don't have any</p> <p>19 specific reason to dispute it, no.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Do you remember the DEA</p> <p>22 discussing specific characteristics of</p> <p>23 hydrocodone products during the August 10, 2005</p> <p>24 meeting?</p>

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1 MS. McCLURE: Objection to form,
2 asked and answered.

3 THE WITNESS: Characteristics of
4 hydrocodone products? Not that I recall.
5 BY MR. PIFKO:

6 Q. How about do you recall DEA
7 describing certain characteristics of sales to
8 certain types of pharmacies?

9 MS. McCLURE: Objection to form.

10 THE WITNESS: I recall that, yes.

11 BY MR. PIFKO:

12 Q. What specifically do you recall
13 about that?

14 A. We discussed characteristics of
15 internet pharmacy and what to look for.

16 Q. What specifically were you
17 supposed to look for with respect to internet
18 pharmacies?

19 MS. McCLURE: Objection to form.

20 THE WITNESS: I don't recall
21 everything. A few things. I can tell
22 you what I do remember.

23 BY MR. PIFKO:

24 Q. Yeah, that's what I'm asking.

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1 A. Okay. I'm trying to recall.

2 To look for like FedEx boxes or
3 UPS boxes piled up in the pharmacy that would
4 indicate they're shipping drugs other than just
5 filling them at the store. Other than that, I
6 can't remember the specifics.

7 Q. When you came back to this
8 meeting, did you instruct anyone at
9 AmerisourceBergen to look for those type of
10 characteristics?

11 MS. McCLURE: Objection to form.

12 THE WITNESS: I don't recall
13 specifically.

14 BY MR. PIFKO:

15 Q. How about generally?

16 MS. McCLURE: Same.

17 THE WITNESS: I'm sure I did, I
18 just don't recall.

19 BY MR. PIFKO:

20 Q. Who would you have told?

21 MS. McCLURE: Objection to form.

22 THE WITNESS: Don't recall
23 specifically.

24 BY MR. PIFKO:

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1 Q. Do you recall writing anything
2 down to change AmerisourceBergen's procedures
3 with respect to the due diligence it may perform
4 with respect to customers after you had this
5 meeting?

6 MS. McCLURE: Objection to form.

7 THE WITNESS: I don't recall
8 writing things down.

9 BY MR. PIFKO:

10 Q. Do you recall changing any
11 policies or procedures in order to look for the
12 criteria that the Department of Justice
13 identified to you during this meeting?

14 MS. McCLURE: Objection to form,
15 assumes facts not in evidence,
16 foundation.

17 THE WITNESS: I don't recall
18 specifically.

19 BY MR. PIFKO:

20 Q. How about generally?

21 MS. McCLURE: Same.

22 THE WITNESS: Generally, I know
23 we made some changes.

24 BY MR. PIFKO:

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED],

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[REDACTED]

Page 40

[REDACTED]

17 Q. Starting where we left off, it
18 says, "Respondent continued to sell controlled
19 substances to Grand, Discount Mail Meds and" Med
20 Assistant "even though Respondent knew, or should
21 have known, that these pharmacies were diverting
22 controlled substances into other than legitimate
23 medical, scientific and industrial channels."
24 Do you see that?

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[REDACTED]

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1 A. Yes, I see that.
2 Q. Did I read that correctly?
3 A. Yes, you did.
4 Q. If you go back to page 2,
5 paragraph 3, it talks about how AmerisourceBergen
6 distributed approximately a million dosage units
7 of hydrocodone products to Grand Pharmacy.
8 Do you see that?
9 MS. McCLURE: Objection to form.
10 THE WITNESS: I do.
11 BY MR. PIFKO:
12 Q. Did I read that correct -- did I
13 summarize that correctly?
14 A. I believe you did.
15 Q. Okay. And then in paragraph 4,
16 it talks about supplying hydrocodone products to
17 a number of other pharmacies.
18 Do you see that?
19 A. Yes, I do.
20 Q. And then it says in paragraph 4
21 that the distribution of those was under
22 circumstances that should have alerted
23 AmerisourceBergen that the pharmacies were
24 diverting hydrocodone.

<p style="text-align: right;">Page 42</p> <p>1 Do you see that?</p> <p>2 A. You said paragraph 4?</p> <p>3 Q. Yeah. The last sentence in the</p> <p>4 bottom of that first paragraph there.</p> <p>5 A. Okay. I see it.</p> <p>6 Q. Did I read that correctly?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Do you believe that the</p> <p>9 policies and procedures that you implemented</p> <p>10 after this August 2005 meeting were sufficient to</p> <p>11 detect diversion?</p> <p>12 MS. McCCLURE: Objection, form.</p> <p>13 THE WITNESS: I believe that the</p> <p>14 actions that we took enabled us to</p> <p>15 identify internet pharmacies. And I</p> <p>16 think we ceased distributing to some of</p> <p>17 these. I can't tell you exactly which</p> <p>18 ones, but I believe we cut those off.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. After you received this letter?</p> <p>21 A. No. I think some of these were</p> <p>22 cut off before this action was taken. I can't --</p> <p>23 I don't remember specifically which ones, but I</p> <p>24 do recall that when this happened, some of these</p>	<p style="text-align: right;">Page 44</p> <p>1 have known that they were diverting them to</p> <p>2 illegitimate channels, you still feel like the</p> <p>3 company was doing enough, as the director of</p> <p>4 regulatory affairs?</p> <p>5 MS. McCCLURE: Objection, form.</p> <p>6 THE WITNESS: I felt like we were</p> <p>7 doing the best we could as a distributor</p> <p>8 to comply with the regulations. And we</p> <p>9 took steps to improve our due diligence</p> <p>10 and our monitoring of our customers.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Do you believe you took adequate</p> <p>13 steps to improve your due diligence and monitor</p> <p>14 customers?</p> <p>15 MS. McCCLURE: Objection, form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Going to page 3 here, it says, in</p> <p>19 the middle of the second paragraph -- tell me</p> <p>20 when you're there -- "it is my preliminary</p> <p>21 conclusion that Respondent's continued</p> <p>22 registration while these proceedings are pending</p> <p>23 would constitute an imminent danger to the public</p> <p>24 health and safety because of the substantial</p>
<p style="text-align: right;">Page 43</p> <p>1 customers that were mentioned, we had cut off</p> <p>2 before the suspension.</p> <p>3 Q. Did receiving this letter cause</p> <p>4 AmerisourceBergen to be concerned that it wasn't</p> <p>5 doing enough to comply with diversion control</p> <p>6 laws and regulations?</p> <p>7 MS. McCCLURE: Objection to form.</p> <p>8 THE WITNESS: I couldn't tell you</p> <p>9 what the company thought.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. How about you? You were</p> <p>12 regulatory affairs manager.</p> <p>13 A. Director.</p> <p>14 Q. Director.</p> <p>15 A. Uh-huh.</p> <p>16 Q. Did you feel like the company was</p> <p>17 doing enough to prevent diversion when you</p> <p>18 received this order to show cause?</p> <p>19 MS. McCCLURE: Objection, form.</p> <p>20 THE WITNESS: Yes, I did.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. So even though the Department of</p> <p>23 Justice said that you were distributing</p> <p>24 substances to customers when you knew or should</p>	<p style="text-align: right;">Page 45</p> <p>1 likelihood that Respondent will continue to</p> <p>2 supply pharmacies that divert large quantities of</p> <p>3 controlled substances."</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes, you did.</p> <p>6 Q. Upon receiving that, did that</p> <p>7 give you, as the director of compliance and</p> <p>8 regulatory issues, concern about whether the</p> <p>9 company's practices were sufficient?</p> <p>10 MS. McCCLURE: Objection to form.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Did you think the Department of</p> <p>14 Justice's conclusions were wrong?</p> <p>15 A. I think so, yeah. They weren't</p> <p>16 completely accurate, in my opinion.</p> <p>17 Q. Why do you say that they weren't</p> <p>18 completely accurate?</p> <p>19 A. I can't really say. I just don't</p> <p>20 think they were completely accurate. I felt like</p> <p>21 we were doing the best we could to monitor the</p> <p>22 distribution of these drugs.</p> <p>23 Q. Do you have any factual basis to</p> <p>24 challenge that Department of Justice's conclusion</p>

1 there?

2 MS. McCLURE: Objection to form,
3 asked and answered.

4 THE WITNESS: Not today I don't,
5 no.

6 BY MR. PIFKO:

7 Q. Do you know what happened after
8 you received -- the company received this letter?

9 MS. McCLURE: Form.

10 THE WITNESS: What do you mean,
11 what happened?

12 BY MR. PIFKO:

13 Q. The Orlando facility did get its
14 registration suspended. Correct?

15 A. Yes, that's correct.

16 Q. And you had to halt shipments of
17 product for some time period from that facility.
18 Correct?

19 MS. McCLURE: Objection, form.

20 THE WITNESS: Ask the question
21 again, please, I'm sorry.

22 BY MR. PIFKO:

23 Q. You had to halt shipments of
24 product from that facility for some period of

¹ BY MR. PIFKO:

2 Q. Are you aware of any other
3 actions where the DEA was investigating the
4 company for potential violations of diversion
5 control laws?

6 A. I -- actions -- I mean, I can't
7 recall specifics.

8 Q. How about generally?

9 A. There's always investigations.
10 They inspect our facilities frequently, and there
11 could -- there's always -- I shouldn't say
12 always, but often there's minor violations that
13 are part of their investigation, part of the
14 Controlled Substances Act and the regulations.

15 Q. Do you recall any criminal
16 investigations that were occurring with respect
17 to AmerisourceBergen's diversion control
18 practices?

■ **1** **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19** **20** **21** **22** **23** **24** **25** **26** **27** **28** **29** **30** **31** **32** **33** **34** **35** **36** **37** **38** **39** **40** **41** **42** **43** **44** **45** **46** **47** **48** **49** **50** **51** **52** **53** **54** **55** **56** **57** **58** **59** **60** **61** **62** **63** **64** **65** **66** **67** **68** **69** **70** **71** **72** **73** **74** **75** **76** **77** **78** **79** **80** **81** **82** **83** **84** **85** **86** **87** **88** **89** **90** **91** **92** **93** **94** **95** **96** **97** **98** **99** **100**

¹ time after that. Correct?

2 MS. McCLURE: Objection, form.

3 THE WITNESS: We had to halt
4 shipments of controlled substances from
5 the facility.

6 BY MR. PIFKO:

7 Q. Do you know how long that was in
8 place, where you weren't allowed to ship
9 controlled substances from that facility?

10 A. I couldn't tell you exactly, but
11 it was about three months.

12 Q. Some years later, the Houston
13 facility also almost lost its registration.

14 Correct?

15 MS. McCLURE: Objection to form.

16 THE WITNESS: I don't know what
17 you're talking about.

18 BY MR. PIFKO:

19 Q. You don't have any recollection
20 of the DEA almost suspending the registration of
21 the Houston facility?

22 MS. McCLURE: Objection to form.

23 THE WITNESS: I have no
24 knowledge. No knowledge of that.

[illegible]

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[REDACTED]

Page 52

[REDACTED]

Page 51

[REDACTED]

Page 53

[REDACTED]

Page 56

1 MS. McCLURE: Objection, asked
2 and answered.
3 THE WITNESS: Would that be prior
4 to the suspension?
5 BY MR. PIFKO:
6 Q. Yes.
7 A. Is that what you're asking?
8 Q. Yes.
9 A. As I recall, it would be the same
10 as any of the other facilities.
11 Q. Okay. So at the time this letter
12 was sent, AmerisourceBergen's diversion control
13 systems were the same at all of its distribution
14 centers. Correct?
15 MS. McCLURE: Objection to form.
16 THE WITNESS: That's what I
17 recall, yes.
18 BY MR. PIFKO:
19 Q. So anything occurring at this
20 Orlando facility could be occurring at any other
21 distribution center. Correct?
22 MS. McCLURE: Objection, form.
23 THE WITNESS: I disagree.
24 BY MR. PIFKO:

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1 Q. What do you disagree?
2 A. Because they're a different
3 customer base, different region of the country.
4 Q. But with respect to
5 AmerisourceBergen's procedures, the same things
6 that are occurring at this facility are the same
7 thing that are occurring at other facilities.
8 Correct?
9 MS. McCLURE: Objection to form.
10 THE WITNESS: As far as our
11 procedures and how -- our policies and
12 procedures, yes, they're -- they would be
13 the same for all of the distribution
14 centers.
15 BY MR. PIFKO:

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1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 BY MR. PIFKO:
 17 Q. Let's go to page 2 of Exhibit 1.
 18 A. Okay.
 19 Q. So looking at paragraph 4, it
 20 says, the bottom of paragraph 4, "Respondent
 21 distributed hydrocodone under the following
 22 circumstances that should have alerted Respondent
 23 that the pharmacies were diverting hydrocodone."
 24 Do you see that?

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1 A. Yes, I do.
 2 Q. Did I read that correctly?
 3 A. Yes, you did.
 4 Q. Then it's got subparts A through
 5 D.
 6 Do you see those?
 7 A. Yes, I do.
 8 Q. Part A says, "Respondent
 9 distributed hydrocodone to each of the named
 10 pharmacies, and others, in amounts that far
 11 exceeded what an average pharmacy orders to meet
 12 the legitimate needs of its customers."
 13 Do you see that?
 14 A. Yes, I do.
 15 Q. Did I read that correctly?
 16 A. Yes, you did.
 17 Q. "Respondent knew that orders of
 18 an unusual size were 'suspicious' as that term is
 19 used in 21 C.F.R. section 1301.74(b)."
 20 Did I read that correctly?
 21 A. Yes, you did.
 22 Q. What was AmerisourceBergen's
 23 system that was in place to monitor the amounts
 24 that its customers ordered --

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1 MS. McCLURE: Objection.
 2 BY MR. PIFKO:
 3 Q. -- at that time?
 4 MS. McCLURE: Asked and answered.
 5 THE WITNESS: As I recall, it was
 6 a system that generated a report that
 7 indicated any orders that were above
 8 certain parameters looking back over that
 9 customer's average purchases. And they
 10 would be flagged on that report if they
 11 exceeded that average or that parameter.
 12 BY MR. PIFKO:
 13 Q. So you agree here that the DEA is
 14 saying in this letter that AmerisourceBergen
 15 nevertheless distributed hydrocodone to
 16 pharmacies even though the amounts exceeded what
 17 an average pharmacy would order for legitimate
 18 needs.
 19 Do you see that?
 20 MS. McCLURE: Objection, form.
 21 THE WITNESS: You're on the
 22 subparagraph A?
 23 BY MR. PIFKO:
 24 Q. Yes.

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1 A. I agree that that's what DEA is
 2 saying, yes.
 3 Q. So did AmerisourceBergen at this
 4 time not have a way of monitoring what a
 5 customer's volume was with -- as compared to what
 6 an average pharmacy would need to meet legitimate
 7 needs of its customers?
 8 MS. McCLURE: Objection, form.
 9 THE WITNESS: I don't recall the
 10 specific algorithms of that program.
 11 BY MR. PIFKO:
 12 Q. You believe there was a program
 13 that had algorithms?
 14 A. I'm sorry?
 15 Q. You believe there was a program
 16 that had some algorithm?
 17 A. I don't know if algorithm is a
 18 correct word, but it had a formula built into the
 19 system, a certain percentage. And it basically
 20 looked at that customer's purchases over, I
 21 believe it was -- I believe it was a rolling
 22 three-month average. And if it exceeded that by
 23 a certain amount, then it would be flagged on
 24 this report as a possible excessive order.

<p style="text-align: right;">Page 62</p> <p>1 Q. But according to DEA, you failed</p> <p>2 to alert DEA and you failed to prevent orders of</p> <p>3 unusual size from being shipped to customers.</p> <p>4 Correct?</p> <p>5 MS. McCLURE: Objection to form.</p> <p>6 THE WITNESS: Can you repeat that</p> <p>7 again? I'm sorry.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Yes. So in A here it's saying</p> <p>10 that you nevertheless shipped orders beyond what</p> <p>11 an average pharmacy needed?</p> <p>12 MS. McCLURE: Objection, form.</p> <p>13 THE WITNESS: I don't know what</p> <p>14 an average pharmacy needed.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay.</p> <p>17 A. So...</p> <p>18 Q. So at the time AmerisourceBergen</p> <p>19 had no way of evaluating what an average pharmacy</p> <p>20 needed; is that correct?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: We only had the</p> <p>23 ability to know what our customers were</p> <p>24 purchasing.</p>	<p style="text-align: right;">Page 64</p> <p>1 MS. McCLURE: Objection, asked</p> <p>2 and answered.</p> <p>3 THE WITNESS: I see that in</p> <p>4 general, yes.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. And if you go on the first page</p> <p>7 here, it says that, in paragraph 1, "Respondent</p> <p>8 distributed over 3.8 million dosage units of</p> <p>9 combination hydrocodone products to customers</p> <p>10 that it knew or should have known were diverting</p> <p>11 the hydrocodone into other than legitimate</p> <p>12 medical, scientific and industrial channels."</p> <p>13 Do you see that?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: I see that.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. And so my question to you is,</p> <p>18 there's a failure of AmerisourceBergen to catch</p> <p>19 this volumes that the Department of Justice</p> <p>20 identified. Correct?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: In their opinion,</p> <p>23 yes.</p> <p>24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 63</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Did you take any steps to know</p> <p>3 what the average pharmacy within your own</p> <p>4 customers would need to fill legitimate needs of</p> <p>5 its customers?</p> <p>6 MS. McCLURE: Objection, form.</p> <p>7 THE WITNESS: I don't recall.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Would you agree that there was a</p> <p>10 failure of AmerisourceBergen's system that led to</p> <p>11 the receipt of this order to show cause?</p> <p>12 MS. McCLURE: Objection, form.</p> <p>13 THE WITNESS: No, I don't agree</p> <p>14 that there was a failure to our system.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Going to page 3 here, the top</p> <p>17 paragraph. We looked at this earlier.</p> <p>18 A. Uh-huh.</p> <p>19 Q. It said that AmerisourceBergen</p> <p>20 shipped over 5.2 million dosage units of</p> <p>21 hydrocodone to pharmacies that had certain</p> <p>22 characteristics that were discussed in your</p> <p>23 August 10, 2005 meeting.</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. What I'm trying to understand is</p> <p>2 where -- what occurred to result in that failure?</p> <p>3 MS. McCLURE: Objection to form.</p> <p>4 THE WITNESS: I didn't say there</p> <p>5 was a failure.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Did you not know that those</p> <p>8 volumes of hydrocodone products were being</p> <p>9 shipped to AmerisourceBergen customers?</p> <p>10 A. I didn't know personally, no.</p> <p>11 Q. Was the company doing anything to</p> <p>12 monitor the potentially significant volumes of</p> <p>13 hydrocodone products that were being shipped to</p> <p>14 its customers?</p> <p>15 MS. McCLURE: Objection, form.</p> <p>16 THE WITNESS: We had a suspicious</p> <p>17 order monitoring program.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Okay. So did the system just not</p> <p>20 catch these orders?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: I couldn't tell you</p> <p>23 that.</p> <p>24 BY MR. PIFKO:</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Do you know if the system caught</p> <p>2 these orders and then they were simply released?</p> <p>3 MS. McCLURE: Objection, form.</p> <p>4 THE WITNESS: If these orders</p> <p>5 were suspicious, they would have been on</p> <p>6 that report and they would have been</p> <p>7 reported to DEA as suspicious.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. The DEA here is saying these</p> <p>10 orders are suspicious.</p> <p>11 Do you agree? Let's look at page</p> <p>12 2, paragraph 4a.</p> <p>13 MS. McCLURE: Objection.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. "Respondent knew that orders of</p> <p>16 an unusual size were 'suspicious' as that term is</p> <p>17 used in 21 C.F.R. Section 1301.74(b)."</p> <p>18 MS. McCLURE: What's the</p> <p>19 question?</p> <p>20 THE WITNESS: Yeah.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. My question to you was, the DEA</p> <p>23 was saying these orders were suspicious.</p> <p>24 Correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 THE WITNESS: Again, I don't know</p> <p>2 what an average pharmacy's purchases</p> <p>3 were.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Okay. So AmerisourceBergen had</p> <p>6 no steps to monitor what an average pharmacy's</p> <p>7 needs were at that time.</p> <p>8 MS. McCLURE: Objection.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Is that correct?</p> <p>11 A. That's --</p> <p>12 MS. McCLURE: Objection, form,</p> <p>13 asked and answered and misstates the</p> <p>14 witness's prior testimony.</p> <p>15 You may answer.</p> <p>16 THE WITNESS: I disagree. We</p> <p>17 have a suspicious order monitoring</p> <p>18 program.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Okay. But you just said, I don't</p> <p>21 know what an average pharmacy would need.</p> <p>22 A. That's correct.</p> <p>23 Q. Did AmerisourceBergen have any</p> <p>24 policies or procedures in place to evaluate what</p>
<p style="text-align: right;">Page 67</p> <p>1 MS. McCLURE: Objection.</p> <p>2 Objection, form.</p> <p>3 THE WITNESS: I don't see where</p> <p>4 DEA says those orders were suspicious.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Well, it's saying each of these</p> <p>7 pharmacies and others where you distributed</p> <p>8 hydrocodone products to them in amounts that far</p> <p>9 exceeded what an average pharmacy orders to meet</p> <p>10 the legitimate needs of its customers.</p> <p>11 Do you see that?</p> <p>12 A. Yes, I see that.</p> <p>13 Q. Okay. And it's talking about</p> <p>14 orders that AmerisourceBergen shipped to its</p> <p>15 customers. Correct?</p> <p>16 A. Yes, yes, that's correct.</p> <p>17 Q. And then it says, you knew that</p> <p>18 orders of an unusual size were suspicious.</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. Did you not know that the orders</p> <p>22 that exceeded what an average pharmacy would need</p> <p>23 were suspicious?</p> <p>24 MS. McCLURE: Objection to form.</p>	<p style="text-align: right;">Page 69</p> <p>1 an average pharmacy might need?</p> <p>2 MS. McCLURE: Objection, form.</p> <p>3 THE WITNESS: We have a</p> <p>4 suspicious order monitoring program to</p> <p>5 monitor our own customers. We don't</p> <p>6 know -- we didn't know what an average</p> <p>7 pharmacy purchased, what the quantities</p> <p>8 were for an average pharmacy.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So at that time, there was</p> <p>11 nothing in AmerisourceBergen's system to evaluate</p> <p>12 what an average pharmacy might need for its</p> <p>13 legitimate needs for its customers. Correct?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Not other than our</p> <p>16 own customers. That's the only data we</p> <p>17 have or that we had at that time.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. But you were saying, under</p> <p>20 AmerisourceBergen's systems in place at that</p> <p>21 time, it only monitored the average of each</p> <p>22 customer against its own orders at that time.</p> <p>23 Correct?</p> <p>24 MS. McCLURE: Objection, form.</p>

<p style="text-align: right;">Page 70</p> <p>1 THE WITNESS: That's what I</p> <p>2 recall, yes.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. You weren't undertaking any</p> <p>5 effort to compare a pharmacy's orders compared to</p> <p>6 another pharmacy's orders at that time. Correct?</p> <p>7 MS. McCCLURE: Objection to form.</p> <p>8 THE WITNESS: Not that I know of.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Let's go to paragraph 4b.</p> <p>11 A. Okay.</p> <p>12 Q. It says, "Respondent distributed</p> <p>13 hydrocodone to each of the named pharmacies, and</p> <p>14 others, even though the pharmacies ordered small</p> <p>15 amounts of other drug products relative to the</p> <p>16 pharmacies' hydrocodone purchases from</p> <p>17 Respondent."</p> <p>18 Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. "Respondent knew orders for large</p> <p>21 amounts of hydrocodone in combination with small</p> <p>22 amounts of other drug products deviated from the</p> <p>23 normal pattern of orders placed by pharmacies."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. Did you have any system in</p> <p>2 place to monitor its purchasing of Schedule II or</p> <p>3 III controlled substances as it compared to other</p> <p>4 types of substances?</p> <p>5 A. Not that I know of.</p> <p>6 Q. Let's go to paragraph 4c.</p> <p>7 It says, "Respondent distributed</p> <p>8 hydrocodone to each of the named pharmacies, and</p> <p>9 others, even though the pharmacies ordered</p> <p>10 hydrocodone much more frequently than</p> <p>11 Respondent's other pharmacy customers."</p> <p>12 Do you see that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Did I read that correctly?</p> <p>15 A. Yes, you did.</p> <p>16 Q. It says, "Respondent knew that</p> <p>17 orders of unusual frequency were 'suspicious' as</p> <p>18 that term is used in 21 C.F.R. Section</p> <p>19 1301.74(b)."</p> <p>20 Did I read that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Did AmerisourceBergen have any</p> <p>23 system in place at that time to evaluate the</p> <p>24 frequency of orders of controlled substances</p>
<p style="text-align: right;">Page 71</p> <p>1 A. I see that.</p> <p>2 Q. Did you know, as the head of</p> <p>3 regulatory and compliance issues for diversion</p> <p>4 control at that time, that an order for large</p> <p>5 amounts of hydrocodone as compared to other drug</p> <p>6 products was something that deviated from the</p> <p>7 normal pattern of ordering for a pharmacy?</p> <p>8 MS. McCCLURE: Objection, form.</p> <p>9 THE WITNESS: Repeat the</p> <p>10 question, please?</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Did you know, as the head of</p> <p>13 regulatory and compliance issues for diversion</p> <p>14 control issues at that time, that an order for</p> <p>15 large amounts of hydrocodone, as compared to</p> <p>16 other drug products, was something that deviated</p> <p>17 from the normal pattern of ordering for a</p> <p>18 pharmacy?</p> <p>19 MS. McCCLURE: Objection to form.</p> <p>20 THE WITNESS: We were -- we</p> <p>21 monitored the purchases of that customer,</p> <p>22 compared to their previous purchases, is</p> <p>23 the way our system worked.</p> <p>24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 73</p> <p>1 placed by its customers?</p> <p>2 MS. McCCLURE: Objection to form.</p> <p>3 THE WITNESS: Not that I know of.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. You said something earlier</p> <p>6 about -- that after the 2005 meeting with DEA</p> <p>7 that's referenced in here --</p> <p>8 A. Uh-huh.</p> <p>9 Q. And let's be specific, the one</p> <p>10 that's referenced in paragraph 5 of Exhibit 1.</p> <p>11 A. Okay.</p> <p>12 Q. You said that after that meeting,</p> <p>13 you initiated some sort of due diligence process.</p> <p>14 Correct?</p> <p>15 MS. McCCLURE: Objection, form.</p> <p>16 THE WITNESS: That's correct.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Prior to that time, did you have</p> <p>19 no due diligence process in place?</p> <p>20 MS. McCCLURE: Objection to form.</p> <p>21 THE WITNESS: Yes, we had due</p> <p>22 diligence. Yes.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. What due diligence process was in</p>

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1 place before that meeting?

2 A. The same due diligence that we

3 had had in place for years.

4 Q. And what was it --

5 A. Do you want me to describe it?

6 Q. Yes.

7 A. Our responsibility was to make a

8 good faith effort to make sure that that

9 customer's properly licensed with the state and

10 registered with DEA.

11 Q. Anything else?

12 A. No.

13 Q. So at that time of the meeting in

14 2005, the only due diligence that was in place

15 was a process to make sure that the customer was

16 properly licensed; is that correct?

17 MS. McCLURE: Objection, form.

18 THE WITNESS: Properly licensed

19 by the state and registered with DEA.

20 That was our requirement under the

21 federal regulations.

22 BY MR. PIFKO:

23 Q. How is it that AmerisourceBergen

24 missed these millions of orders in its suspicious

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1 order monitoring system, as discussed here in

2 Exhibit 1?

3 MS. McCLURE: Objection, form,

4 foundation.

5 THE WITNESS: I'm not sure we

6 missed them. I believe they were

7 reported to DEA as suspicious orders.

8 BY MR. PIFKO:

9 Q. It's your testimony that these

10 orders were picked up by the suspicious order

11 monitoring system and reported to DEA?

12 A. I'm not saying every one. I'm

13 just -- I know that, from what I recall, some of

14 these customers that were mentioned in here, as I

15 recall, had orders that were reported to DEA as

16 suspicious.

17 Q. Do you have any sense of the

18 percentage of the orders, if any, that were

19 caught?

20 A. No, I do not.

21 Q. If you reported these orders to

22 DEA, do you have any understanding as to why DEA

23 issued this order to show cause?

24 MS. McCLURE: Objection, form.

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1 THE WITNESS: No, I don't.

2 BY MR. PIFKO:

3 Q. Did you do anything other than

4 report these orders to -- some of the orders that

5 you discussed to DEA to prevent diversion?

6 MS. McCLURE: Objection, form.

7 THE WITNESS: Yes.

8 BY MR. PIFKO:

9 Q. What did you do?

10 A. We cut off -- I believe we cut

11 off some of these pharmacies, if not all of them.

12 I can't recall exactly which ones.

13 Q. Do you know how many you cut off?

14 A. Couldn't -- don't recall.

15 Q. Do you know when you cut them

16 off?

17 A. Either prior to the suspension or

18 after.

19 Q. So you cut some of them off maybe

20 after the suspension order?

21 MS. McCLURE: Objection, form.

22 THE WITNESS: Well, it would have

23 been prior, because we weren't able to

24 ship after -- after the suspension order.

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1 So it would have been prior to that.

2 BY MR. PIFKO:

3 Q. Would that be contained in any

4 document?

5 MS. McCLURE: Objection, form.

6 THE WITNESS: I'm sure -- no, I

7 don't want to speculate. I don't know.

8 BY MR. PIFKO:

9 Q. Based on your -- you've been with

10 the company for over 30 years. Right? Longer?

11 A. Longer.

12 Q. 40 years?

13 A. Yes.

14 Q. Based on your knowledge of the

15 company's practices and procedures, if you cut

16 off a customer, where would that be documented?

17 MS. McCLURE: Objection, form.

18 THE WITNESS: It depends on what

19 system we're using to document things at

20 a specific time. We've changed

21 documentation processes over the years

22 many times.

23 BY MR. PIFKO:

24 Q. At the time of this order to show

<p style="text-align: right;">Page 78</p> <p>1 cause.</p> <p>2 MS. McCCLURE: Objection, form.</p> <p>3 THE WITNESS: Again, I'm not sure</p> <p>4 where it would have been documented.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. You don't know if it would have</p> <p>7 been documented at all?</p> <p>8 MS. McCCLURE: Objection, form,</p> <p>9 misstates the witness's prior testimony.</p> <p>10 THE WITNESS: I don't recall</p> <p>11 exactly.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. How about generally?</p> <p>14 A. Generally --</p> <p>15 MS. McCCLURE: Same objection.</p> <p>16 THE WITNESS: Generally, I would</p> <p>17 say that they were documented somewhere.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Did you review anything in</p> <p>20 preparing for your deposition that would have</p> <p>21 discussed the company's shipments or orders</p> <p>22 from -- with respect to the pharmacies in</p> <p>23 Exhibit 1?</p> <p>24 MS. McCCLURE: Objection, form.</p>	<p style="text-align: right;">Page 80</p> <p>1 THE WITNESS: I can't.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. You're unable to do that?</p> <p>4 A. Login to, which system are you</p> <p>5 talking about? Our business system?</p> <p>6 Q. AmerisourceBergen's diversion</p> <p>7 control systems.</p> <p>8 MS. McCCLURE: Objection, form.</p> <p>9 THE WITNESS: No. I don't login</p> <p>10 to that.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Do members of your team login to</p> <p>13 that?</p> <p>14 MS. McCCLURE: Objection, form.</p> <p>15 THE WITNESS: Not on my team, no.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Do you know who Eric Cherveny is?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Is he someone that was under your</p> <p>20 team at any point?</p> <p>21 MS. McCCLURE: Objection, form.</p> <p>22 THE WITNESS: He was under my</p> <p>23 team back in, you know, I can't</p> <p>24 remember -- in the 2005 to 2010, sometime</p>
<p style="text-align: right;">Page 79</p> <p>1 THE WITNESS: No, no.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. If you were going to do that, how</p> <p>4 would you do that?</p> <p>5 MS. McCCLURE: Objection, form.</p> <p>6 THE WITNESS: How would I do</p> <p>7 what?</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. If you were going to research the</p> <p>10 order history --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- and shipments made to any of</p> <p>13 the customers discussed in Exhibit 1, how would</p> <p>14 you go about doing that?</p> <p>15 MS. McCCLURE: Objection, form.</p> <p>16 THE WITNESS: I would go back to</p> <p>17 find out whatever system we were using to</p> <p>18 document and look through that and do a</p> <p>19 search.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. It's true that today you can log</p> <p>22 on to AmerisourceBergen's system and look back at</p> <p>23 customer histories and correspondence. Correct?</p> <p>24 MS. McCCLURE: Objection, form.</p>	<p style="text-align: right;">Page 81</p> <p>1 in that area.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. If he testified that you could go</p> <p>4 back and look into AmerisourceBergen's systems</p> <p>5 and get ordering information and information</p> <p>6 about a customer's history going back at least as</p> <p>7 early as 2000, would you have any reason to</p> <p>8 disagree with him?</p> <p>9 MS. McCCLURE: Objection, form.</p> <p>10 THE WITNESS: I'm not sure how</p> <p>11 you would, but maybe he can.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. With respect to these orders, you</p> <p>14 would have reported them after you shipped them.</p> <p>15 Correct?</p> <p>16 MS. McCCLURE: Objection, form.</p> <p>17 THE WITNESS: Which orders are</p> <p>18 you talking about specifically?</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. The 5.2 million orders of</p> <p>21 hydrocodone products or dosage units discussed in</p> <p>22 Exhibit 1.</p> <p>23 MS. McCCLURE: Objection to form.</p> <p>24 THE WITNESS: At that time, they</p>

<p style="text-align: right;">Page 82</p> <p>1 would have been reported after.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. None of these orders would have</p> <p>4 been reported prior to shipment. Correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And all of these orders would</p> <p>7 have been shipped without any due diligence.</p> <p>8 Correct?</p> <p>9 MS. McCLURE: Objection, form.</p> <p>10 THE WITNESS: That's incorrect.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Other than checking their</p> <p>13 registration?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Checking the</p> <p>16 registration, the licensing and all the</p> <p>17 other due diligence that we do on</p> <p>18 customers, whether it's credit, their</p> <p>19 ability to pay and whatever else that</p> <p>20 our -- there's different -- other parts</p> <p>21 of our due diligence that are done. But</p> <p>22 as far as controlled substances, it was</p> <p>23 the licensing.</p> <p>24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 84</p> <p>1 decision would be made about that</p> <p>2 customer based on that due diligence.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Right. But my point is, there's</p> <p>5 no specific due diligence that you conduct with</p> <p>6 respect to an order?</p> <p>7 A. To each order?</p> <p>8 MS. McCLURE: Objection to form.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Right.</p> <p>11 A. Not -- not for each specific</p> <p>12 order, no.</p> <p>13 Q. Okay. So the only due diligence</p> <p>14 that would have been conducted would have been a</p> <p>15 collecting of a form and reviewing that form and</p> <p>16 deciding as a general matter whether to do</p> <p>17 business with that customer. Correct?</p> <p>18 MS. McCLURE: Objection, form.</p> <p>19 THE WITNESS: That's -- that's</p> <p>20 incorrect. That's not correct.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. What's incorrect about my</p> <p>23 statement?</p> <p>24 A. Well, the due diligence is</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. Okay. So the orders of the</p> <p>2 5.2 million dosage units that are discussed in</p> <p>3 Exhibit 1, the only due diligence with respect to</p> <p>4 diversion control that would have been performed</p> <p>5 on those would have been checking the licensing?</p> <p>6 MS. McCLURE: Objection, form,</p> <p>7 misstates the witness's prior testimony.</p> <p>8 THE WITNESS: Well, let me take</p> <p>9 you back, because actually, since 2005,</p> <p>10 after that meeting with DEA, we did put</p> <p>11 the due diligence process in place with</p> <p>12 questionnaires. And probably I'm sure a</p> <p>13 lot of these pharmacies had been -- had a</p> <p>14 due diligence investigation, had a</p> <p>15 questionnaire and a site visit.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. But that's something you</p> <p>18 conducted -- it's static.</p> <p>19 You conduct the -- you collect</p> <p>20 the questionnaire, and it sits in a file.</p> <p>21 Correct?</p> <p>22 MS. McCLURE: Objection, form.</p> <p>23 THE WITNESS: No. It gets</p> <p>24 reviewed. It would be reviewed, and a</p>	<p style="text-align: right;">Page 85</p> <p>1 just -- that due diligence questionnaire is just</p> <p>2 part of the process. So any -- an order that</p> <p>3 would have shown up on that suspicious order</p> <p>4 report would have prompted a due diligence</p> <p>5 investigation --</p> <p>6 MS. McCLURE: Objection. Sorry.</p> <p>7 THE WITNESS: -- and a site</p> <p>8 visit.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So I'm getting mixed statements</p> <p>11 from you.</p> <p>12 You said that there was no</p> <p>13 specific due diligence with respect to an order;</p> <p>14 is that correct?</p> <p>15 A. Well, that due diligence could</p> <p>16 have been prompted by an order.</p> <p>17 Q. Explain that to me.</p> <p>18 A. Okay. So when we -- when we</p> <p>19 started doing the questionnaires, the basis for</p> <p>20 doing those questionnaires would have been that</p> <p>21 possible excessive and suspicious order report,</p> <p>22 and that's when that would prompt that</p> <p>23 questionnaire. So it is related to -- it would</p> <p>24 have been related to an order.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q. How frequently --</p> <p>2 A. Or a customer's history.</p> <p>3 Q. How frequently would you collect</p> <p>4 this form from a customer?</p> <p>5 MS. McCLURE: Objection, form.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. For every single order that they</p> <p>9 would place that would be suspicious, you would</p> <p>10 collect another form?</p> <p>11 MS. McCLURE: Objection, form.</p> <p>12 THE WITNESS: I don't know.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Was it -- well, you were in</p> <p>15 charge of diversion control practices at the</p> <p>16 time. Correct?</p> <p>17 MS. McCLURE: Objection, form.</p> <p>18 THE WITNESS: I oversaw that</p> <p>19 area. That's part of regulatory at the</p> <p>20 time, yes.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. And you don't know how the due</p> <p>23 diligence process worked?</p> <p>24 MS. McCLURE: Objection, form,</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Every time?</p> <p>2 A. I'm assuming it would, yes.</p> <p>3 Q. So every time AmerisourceBergen</p> <p>4 had a suspicious order at the time of the</p> <p>5 issuance of this order to show cause and before,</p> <p>6 every single time, for every customer, it would</p> <p>7 have triggered a due diligence investigation?</p> <p>8 A. I don't know that. I don't know</p> <p>9 that for sure.</p> <p>10 Q. You don't know that?</p> <p>11 A. I don't know that.</p> <p>12 Q. Do you have any specific</p> <p>13 understanding of how AmerisourceBergen's due</p> <p>14 diligence process worked --</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. -- at that time and before?</p> <p>18 A. I've already answered that.</p> <p>19 Q. Well, I'm trying to understand</p> <p>20 what would trigger a due diligence investigation.</p> <p>21 You don't seem to know.</p> <p>22 MS. McCLURE: Objection,</p> <p>23 misstates the witness's testimony, asked</p> <p>24 and answered, form.</p>
<p style="text-align: right;">Page 87</p> <p>1 asked and answered.</p> <p>2 THE WITNESS: Yes. I already</p> <p>3 explained that to you.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Well, I'm asking you questions,</p> <p>6 and you're saying you don't know.</p> <p>7 A. Well, I don't know if it was done</p> <p>8 on every single order.</p> <p>9 Q. Okay.</p> <p>10 A. I couldn't tell you. It may have</p> <p>11 been.</p> <p>12 Q. But that's something that you</p> <p>13 don't seem to know about the system. Agree?</p> <p>14 MS. McCLURE: Objection, form.</p> <p>15 THE WITNESS: Ask the question</p> <p>16 again? I'm sorry.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Well, I'm trying to understand if</p> <p>19 AmerisourceBergen had an order that was</p> <p>20 suspicious, whether that order triggered a</p> <p>21 specific due diligence inspection of the order.</p> <p>22 A. If it -- if that -- if that order</p> <p>23 showed up on a suspicious order report, it would</p> <p>24 have triggered a due diligence investigation.</p>	<p style="text-align: right;">Page 89</p> <p>1 THE WITNESS: As I recall, a due</p> <p>2 diligence investigation would have been</p> <p>3 prompted by customers showing up on that</p> <p>4 suspicious order report, that possible</p> <p>5 excessive and suspicious orders I think</p> <p>6 is what it's called. That would prompt</p> <p>7 that due diligence to be done.</p> <p>8 Would it be done every single</p> <p>9 time an order would hit that? I don't</p> <p>10 know. I don't recall.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Would you have investigated that</p> <p>13 order specifically, or would you just look at the</p> <p>14 customer?</p> <p>15 MS. McCLURE: Objection to form.</p> <p>16 THE WITNESS: We mainly would</p> <p>17 look at the customer.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. And what would the nature of your</p> <p>20 customer inquiry be?</p> <p>21 MS. McCLURE: Objection, form.</p> <p>22 THE WITNESS: The nature would be</p> <p>23 a site visit and completion of a</p> <p>24 questionnaire.</p>

<p style="text-align: right;">Page 90</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. So did this prompt any changes to</p> <p>3 AmerisourceBergen's suspicious order monitoring</p> <p>4 system?</p> <p>5 MS. McCCLURE: Objection, form.</p> <p>6 THE WITNESS: Did what prompt?</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. This order to show cause.</p> <p>9 A. Oh, yes, yes.</p> <p>10 Q. That resulted in a settlement</p> <p>11 agreement with DEA. Correct?</p> <p>12 MS. McCCLURE: Objection, asked</p> <p>13 and answered.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. What were the nature of the</p> <p>17 changes that you instituted after this?</p> <p>18 MS. McCCLURE: Objection, form.</p> <p>19 And objection, asked and answered.</p> <p>20 THE WITNESS: We enhanced our</p> <p>21 suspicious order monitoring program at</p> <p>22 the direction of DEA. They wanted us to</p> <p>23 develop a system that would stop and hold</p> <p>24 an order and determine whether it was</p>	<p style="text-align: right;">Page 92</p> <p>1 Do you see that?</p> <p>2 A. Yes, I do.</p> <p>3 Q. You are talking about attending</p> <p>4 an HDMA conference. Agreed?</p> <p>5 A. Agree.</p> <p>6 Q. It says, "The HDMA DMC agenda."</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. What's the HDMA DMC?</p> <p>10 A. HDMA DMA is a distribution</p> <p>11 management conference. It's an annual conference</p> <p>12 that HDMA conducts.</p> <p>13 Q. The subject of this email is</p> <p>14 "'Big Four' DEA Strategy Discussion 2."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. So you're reaching out to, at</p> <p>18 this time, people from McKesson, Cardinal Health</p> <p>19 and HD Smith to have a big four DEA strategy</p> <p>20 discussion. Correct?</p> <p>21 MS. McCCLURE: Objection, form.</p> <p>22 THE WITNESS: It's what it says,</p> <p>23 yeah, yeah.</p> <p>24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 91</p> <p>1 suspicious before shipping it.</p> <p>2 - - -</p> <p>3 (Deposition Exhibit No. Mays</p> <p>4 V2-2, Email chain, top one dated 3 Mar</p> <p>5 2013, Bates stamped ABDCMDL00378483</p> <p>6 through ABDCMDL00378488, was marked for</p> <p>7 identification.)</p> <p>8 - - -</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Handing you what's marked as Mays</p> <p>11 Volume 2, Exhibit 2.</p> <p>12 For the record, it's an email</p> <p>13 thread labeled ABDCMDL00378483 through 88.</p> <p>14 Let me know when you're done,</p> <p>15 take a moment to review that.</p> <p>16 A. (Reviewing document.)</p> <p>17 Okay.</p> <p>18 Q. Right. If you go to the second</p> <p>19 to last page here.</p> <p>20 A. Okay.</p> <p>21 Q. It's the start of -- well, it's</p> <p>22 an email -- that part of the header is on the</p> <p>23 prior page, but it's an email from you to people</p> <p>24 at Cardinal Health, McKesson and HD Smith.</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Why were you reaching out to</p> <p>2 representatives from this company -- these</p> <p>3 companies to have a DEA strategy discussion at</p> <p>4 this time?</p> <p>5 A. I think we would typically get</p> <p>6 together sometime around those -- those</p> <p>7 conferences, because it was about the only time</p> <p>8 of the year we had face-to-face time. And we</p> <p>9 would just talk about common concerns and issues</p> <p>10 that we have and do some benchmarking, share</p> <p>11 ideas about how we can improve our programs.</p> <p>12 Q. When you say programs and</p> <p>13 concerns, you're talking about specifically in</p> <p>14 the diversion control area. Correct?</p> <p>15 A. No. It could be anything</p> <p>16 regulatory, not just diversion. It could be</p> <p>17 things about, you know, sometimes we would talk</p> <p>18 about DEA inspections and how they -- how they're</p> <p>19 handled, just to get some -- help each other out.</p> <p>20 Q. Okay. But what I'm trying to ask</p> <p>21 is, when you were talking about concerns and</p> <p>22 benchmarking and programs, you're talking about</p> <p>23 programs that relate to DEA compliance. Correct?</p> <p>24 A. I think for the most part. It's</p>

<p style="text-align: right;">Page 94</p> <p>1 basically anything regulatory that we could talk 2 about. 3 Q. And these other people at 4 McKesson, Cardinal Health and HD Smith, they all 5 had similar responsibilities for regulatory and 6 compliance issues like you did? 7 MS. McCLURE: Objection to form. 8 THE WITNESS: For the most part 9 as I recall, yes. 10 BY MR. PIFKO: 11 Q. So this was -- this specific 12 subject line says, "Strategy Discussion 2." 13 Do you see that? 14 A. Yeah. 15 Q. So this was -- and as you just 16 testified, this was something that you regularly 17 did in connection with HDMA meetings that 18 occurred annually? 19 MS. McCLURE: Objection to form. 20 THE WITNESS: Not always. I 21 think we'd met before. Might not have 22 been at an HDA meeting. 23 BY MR. PIFKO: 24 Q. But you had, with some degree of</p>	<p style="text-align: right;">Page 96</p> <p>1 A. No, I don't believe it was. 2 Q. What was your recollection that 3 brought you all to Chicago? 4 A. I think it had been after, you 5 know, the companies -- you know, we had had 6 action taken against us and I think Cardinal and 7 I'm not sure if McKesson had at the time. And I 8 think the idea was just to get together and see 9 how we could do things better. 10 Q. You think that would have been in 11 2007 or '8? 12 MS. McCLURE: Objection. 13 THE WITNESS: I don't think so. 14 I think it might have been after that. I 15 don't know. 16 BY MR. PIFKO: 17 Q. What action had been taken 18 against you that you're recalling? 19 A. The suspension that we were 20 previously talking about. 21 Q. And you recall that Cardinal had 22 had some action taken against it around the time 23 of this meeting as well? 24 A. Yeah.</p>
<p style="text-align: right;">Page 95</p> <p>1 regularity, meetings with these people to discuss 2 regulatory and compliance issues? 3 MS. McCLURE: Objection, form. 4 THE WITNESS: I wouldn't say 5 regularity. We only met like that maybe 6 two or three times. 7 BY MR. PIFKO: 8 Q. When was the first time you had 9 such a meeting like that? 10 A. I can't remember if it was before 11 this one or after this one. We met in Chicago at 12 the airport one time. And I think Cardinal 13 hosted that meeting. 14 Q. Do you have a rough idea about 15 when that was? 16 MS. McCLURE: Objection. 17 THE WITNESS: No, I don't. 18 MS. McCLURE: Asked and answered. 19 BY MR. PIFKO: 20 Q. But it was a meeting in Chicago 21 at the airport? 22 A. I believe it was, yeah. 23 Q. Was that in connection with an 24 HDMA conference?</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. What specifically was the nature 2 of your understanding about the action taken 3 against Cardinal at that time? 4 A. The one -- the meeting in 5 Chicago? That was when -- because I remember the 6 guy was at that meeting, Michael Mone from 7 Cardinal. And he got called during the meeting, 8 and he had to leave. And I think it was when 9 they had their -- one of their registrations 10 suspended or something and he had to leave. We 11 didn't know what it was about, but he had to just 12 leave all of a sudden. 13 Q. Okay. Do you have a rough idea 14 on or around the time that was? 15 A. No, I don't. 16 Q. Did that -- your recollection 17 lead to a fine against Cardinal Health? 18 MS. McCLURE: Objection, form. 19 THE WITNESS: I think it did 20 after that, but I'm not -- I don't -- 21 because it seems like they had a couple. 22 And I'm not sure if both resulted in 23 fines. 24 BY MR. PIFKO:</p>

<p style="text-align: right;">Page 98</p> <p>1 Q. Okay. And then you know you had 2 this meeting that's reflected in Exhibit 2. 3 Correct? 4 A. Uh-huh. 5 Q. And then you believe there was 6 another meeting that you recall. Correct? 7 A. The one at HDA, the one at HDMA 8 and then the one in Chicago. I think that was 9 all. There may have been another one. 10 Q. You think there was another one? 11 MS. McCLURE: Objection to form. 12 THE WITNESS: I may be thinking 13 about the same one, the one at the HDA 14 meeting, that -- it's the two that I can 15 recall specifically, yeah. 16 BY MR. PIFKO: 17 Q. This meeting reflected in 18 Exhibit 2, this was a meeting that was ultimately 19 held. Correct? 20 A. You know, I don't remember the 21 meeting itself, whether we actually had it or 22 not. I'm -- I don't want to assume, but -- 23 Q. Where was this? 24 A. -- it looks like we planned to</p>	<p style="text-align: right;">Page 100</p> <p>1 2/6/2008, Bates stamped 2 CAH_MDL2804_01364805 through 3 CAH_MDL2804_01364809, was marked for 4 identification.) 5 - - - 6 BY MR. PIFKO: 7 Q. Handing you what's marked as Mays 8 Volume 2 Exhibit 3. 9 For the record, this is a 10 Cardinal Health document Bates labeled 11 CAH_MDL2804_01364805 to 809. 12 Take a moment to review this and 13 let me know when you're ready. 14 A. Okay. 15 (Reviewing document.) 16 Okay. 17 Q. Have you seen this before? 18 A. I don't recall it. 19 Q. You see at the top it's an email 20 from you to Steve Reardon? 21 A. Yes, I do. 22 Q. Dated February 6, 2008? 23 A. Yes, I see that. 24 Q. It's discussing a Bloomberg story</p>
<p style="text-align: right;">Page 99</p> <p>1 get together, but I just don't remember the 2 meeting specifically. 3 Q. Where was this meeting? 4 A. I saw something in the email 5 about me having tickets to Phillies spring 6 training, so I believe that was when the 7 conference was in Tampa. 8 Q. Okay. 9 A. The HDA conference was in Tampa. 10 Q. And then you talk about in this 11 email about scheduling a dinner with them as 12 well? 13 MS. McCLURE: Objection to form. 14 THE WITNESS: Yeah. I just don't 15 recall who went to dinner or not. I just 16 don't remember that. 17 BY MR. PIFKO: 18 Q. Do you think that you had other 19 meetings with these individuals in subsequent HDA 20 conferences? 21 A. I don't recall. 22 - - - 23 (Deposition Exhibit No. Mays 24 V2-3, Email chain, top one dated</p>	<p style="text-align: right;">Page 101</p> <p>1 about McKesson negotiating shipping restrictions 2 as part of a DEA probe. Agree? 3 A. Yeah. Yes, I agree. 4 Q. You forwarded this article to 5 Steve Reardon at Cardinal Health. Agree? 6 A. That's what it looks like, yes. 7 Q. Who is Steve Reardon? 8 A. He was my counterpart at Cardinal 9 at the time. 10 Q. And you thought that he would be 11 interested to see this article about McKesson? 12 MS. McCLURE: Objection, form. 13 THE WITNESS: I would think so. 14 That would be the only reason I would 15 have sent it to him. 16 BY MR. PIFKO: 17 Q. You had a practice of exchanging 18 information with Mr. Reardon about diversion 19 control issues? 20 MS. McCLURE: Objection, form. 21 THE WITNESS: No. 22 BY MR. PIFKO: 23 Q. Why do you believe you would have 24 shared this with him on this occasion?</p>

<p style="text-align: right;">Page 102</p> <p>1 MS. McCLURE: Objection to form.</p> <p>2 THE WITNESS: I don't recall.</p> <p>3 This was 11 years ago. I don't remember</p> <p>4 why I sent it to him.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Did you have regular</p> <p>7 communications with Steve Reardon?</p> <p>8 MS. McCLURE: Objection, form.</p> <p>9 THE WITNESS: Well, how -- define</p> <p>10 regular. Every day, every week, every</p> <p>11 month, every year?</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. With any degree of regularity.</p> <p>14 MS. McCLURE: Objection to the</p> <p>15 definition.</p> <p>16 THE WITNESS: What's regularity?</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. What's regular to you?</p> <p>19 A. Regular would be every day.</p> <p>20 Q. Did you talk to Steve Reardon</p> <p>21 with some frequency?</p> <p>22 MS. McCLURE: Objection to form.</p> <p>23 THE WITNESS: I would say</p> <p>24 occasionally, at HDA calls, HDA meetings,</p>	<p style="text-align: right;">Page 104</p> <p>1 record at 1:00 p.m.</p> <p>2 (Witness excused.)</p> <p>3 (Deposition concluded at</p> <p>4 approximately 1:00 p.m.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 103</p> <p>1 things like that. Not a lot of back and</p> <p>2 forth, no.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. From time to time you would share</p> <p>5 information, though, with him about issues in the</p> <p>6 drug distribution business. Correct?</p> <p>7 A. Yes. As long as it was not</p> <p>8 proprietary information from ABC.</p> <p>9 MR. PIFKO: Go off the record for</p> <p>10 a minute.</p> <p>11 THE VIDEOGRAPHER: Going off the</p> <p>12 record, 12:56 p.m.</p> <p>13 - - -</p> <p>14 (A recess was taken from</p> <p>15 12:56 p.m. to 1:00 p.m.)</p> <p>16 - - -</p> <p>17 THE VIDEOGRAPHER: Back on record</p> <p>18 at 1:00 p.m.</p> <p>19 MR. PIFKO: All right. We don't</p> <p>20 have any further questions at this time.</p> <p>21 MS. McCLURE: No further -- no</p> <p>22 questions.</p> <p>23 THE VIDEOGRAPHER: This ends</p> <p>24 today's deposition. We're going off the</p>	<p style="text-align: right;">Page 105</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I HEREBY CERTIFY that the witness</p> <p>6 was duly sworn by me and that the deposition is a</p> <p>7 true record of the testimony given by the</p> <p>8 witness.</p> <p>9</p> <p>10 It was requested before</p> <p>11 completion of the deposition that the witness,</p> <p>12 STEPHEN MAYS, have the opportunity to read and</p> <p>13 sign the deposition transcript.</p> <p>14</p> <p>15 ANN MARIE MITCHELL, a Federally</p> <p>16 Approved Certified Realtime</p> <p>17 Reporter, Registered Diplomat</p> <p>18 Reporter, Registered Merit Reporter and</p> <p>19 Notary Public</p> <p>20</p> <p>21 (The foregoing certification of</p> <p>22 this transcript does not apply to any</p> <p>23 reproduction of the same by any means, unless</p> <p>24 under the direct control and/or supervision of</p> <p>the certifying reporter.)</p>

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<p>1 INSTRUCTIONS TO WITNESS</p> <p>2</p> <p>3 Please read your deposition over</p> <p>4 carefully and make any necessary corrections.</p> <p>5 You should state the reason in the appropriate</p> <p>6 space on the errata sheet for any corrections</p> <p>7 that are made.</p> <p>8 After doing so, please sign the</p> <p>9 errata sheet and date it.</p> <p>10 You are signing same subject to</p> <p>11 the changes you have noted on the errata sheet,</p> <p>12 which will be attached to your deposition.</p> <p>13 It is imperative that you return</p> <p>14 the original errata sheet to the deposing</p> <p>15 attorney within thirty (30) days of receipt of</p> <p>16 the deposition transcript by you. If you fail to</p> <p>17 do so, the deposition transcript may be deemed to</p> <p>18 be accurate and may be used in court.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1</p> <p>2 ACKNOWLEDGMENT OF DEPONENT</p> <p>3</p> <p>4 I, _____, do</p> <p>5 hereby certify that I have read the foregoing</p> <p>6 pages, 1 - 108, and that the same is a correct</p> <p>7 transcription of the answers given by me to the</p> <p>8 questions therein propounded, except for the</p> <p>9 corrections or changes in form or substance, if</p> <p>10 any, noted in the attached Errata Sheet.</p> <p>11</p> <p>12</p> <p>13 _____</p> <p>14 STEPHEN MAYS DATE</p> <p>15</p> <p>16</p> <p>17 Subscribed and sworn</p> <p>18 to before me this</p> <p>19 _____ day of _____, 20 ____.</p> <p>20 My commission expires: _____</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 107</p> <p>1 - - - - -</p> <p>2 E R R A T A</p> <p>3 - - - - -</p> <p>4 PAGE LINE CHANGE</p> <p>5 _____</p> <p>6 REASON: _____</p> <p>7 _____</p> <p>8 REASON: _____</p> <p>9 _____</p> <p>10 REASON: _____</p> <p>11 _____</p> <p>12 REASON: _____</p> <p>13 _____</p> <p>14 REASON: _____</p> <p>15 _____</p> <p>16 REASON: _____</p> <p>17 _____</p> <p>18 REASON: _____</p> <p>19 _____</p> <p>20 REASON: _____</p> <p>21 _____</p> <p>22 REASON: _____</p> <p>23 _____</p> <p>24 REASON: _____</p>	